



April 24, 2020

SUBMITTED ELECTRONICALLY

National Freedom of Information Officer
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW (2822T)
Washington, DC 20460
(202) 566-1667

Re: Freedom of Information Act Request for Correspondence Between EPA and Mandy Gunasekara

Dear National Freedom of Information Officer:

Environmental Defense Fund ("EDF") respectfully requests records, as that term is described at 5 U.S.C. § 552(f)(2) of the Freedom of Information Act ("FOIA"), of the U.S. Environmental Protection Agency ("EPA" or the "Agency"). Specifically, EDF requests copies of all correspondence between Mandy Gunasekara and the following EPA custodians:

- Michael Abboud
- Doug Benevento
- Susan Bodine
- Brittany Bolen
- Henry Darwin
- Alex Dominguez
- David Fotouhi
- Nancy Grantham
- David Harlow
- Anne Idsal
- Ryan Jackson
- Matthew Leopold
- Troy Lyons
- Michael Molina

- Karl Moor
- Kelley Raymond
- Corry Schiermeyer
- Justin Schwab
- Bill Wehrum
- Andrew Wheeler
- Clint Woods

EDF respectfully seeks records produced, modified, or transmitted from February 8, 2019, through March 15, 2020.

As the date range for responsive records covers a period when Ms. Gunasekara was not employed by EPA, we emphasize that this FOIA request includes correspondence with Ms. Gunasekara regardless of whether such correspondence was sent to, or received from, an “epa.gov” email address. For example, it would include correspondence to or from Ms. Gunasekara’s personal email account(s) or an email account associated with a business affiliation (e.g., mandy@energy45.org).

Correspondence includes hard copy and electronic correspondence including, but not limited to, emails, voice mails, text messages, and correspondence transmitted through any other electronic platform. Responsive records include any correspondence on which Ms. Gunasekara was a sender or recipient (including as a “cc” or “bcc”). It would include, for example, correspondence sent from a third party if recipients included both Ms. Gunasekara and an above-listed custodian.

If any of the information sought in this request is deemed by EPA to be properly withheld under a FOIA exemption, 5 U.S.C. § 552(b), please provide EDF with an explanation, for each such record or portion thereof, sufficient to identify the record and the particular exemption(s) claimed.

Request for Expedited Processing

EDF respectfully seeks expedited processing pursuant to 5 U.S.C. § 552(a)(6)(E)(i) and 40 C.F.R. § 2.104(e)(1)(ii), which applies when there is “[a]n urgency to inform the public about an actual or alleged Federal government activity, if the information is requested by a person primarily engaged in disseminating information to the public.” In support of this request for expedited processing, I certify that the following information is true and correct to the best of my knowledge and belief:

- (1) EDF engages in extensive, daily efforts to inform the public about matters involving environmental policy. For example, EDF has multiple channels for distributing

information to the public, including through direct communication with its more than 2.5 million members, press releases, blog posts, active engagement on social media, and frequent appearances by staff in major media outlets.¹

- (2) In her previous role at EPA, Ms. Gunasekara played a key role in detrimental rollbacks of numerous public health and environmental protections.² Upon leaving the Agency in February 2019, Ms. Gunasekara founded and led an organization called “Energy 45” that provided a vehicle for her to support the Trump Administration’s damaging public health and environmental policies—and whose donors she declined to disclose.³ Energy 45’s webpage was dominated by a headshot of Ms. Gunasekara and a quote in which she described the organization as “here to defend the Trump Energy Agenda in Mississippi.”⁴ With Ms. Gunasekara back at EPA, that same website suggests that Energy 45 has ceased operations.⁵
- (3) EPA is currently rescinding, reviewing, or proposing to rescind major public health and environmental protections that affect the health and well-being of—and garnered public comments from—millions of Americans.⁶

¹ See, e.g., Ellen Knickmeyer, *EPA Guts Rule Credited with Cleaning Up Coal-Plant Toxic Air*, Assoc. Press (Apr. 16, 2020) (quoting EDF President Fred Krupp), <https://apnews.com/f335db392caae2729636b01910f4055a>; Annie Snider, *Green, Health Groups Fear Pandemic Eases Path for Trump EPA Rollbacks*, Politico (Mar. 20, 2020) (quoting EDF General Counsel Vickie Patton), <https://subscriber.politicopro.com/article/2020/03/green-health-groups-fear-pandemic-eases-path-for-trump-epa-rollbacks-1897781>; Elizabeth Gore, *Trump Officially Turned His Back on Climate, but the U.S. Can Still Lead. Here’s How*, EDF Voices Blog (Nov. 4, 2019), <https://www.edf.org/blog/2019/11/04/trump-officially-turned-his-back-climate-us-can-still-lead-heres-how>; Taylor Bacon, *EPA Data Emphasizes Danger of Trump Administration’s “Air Toxics Loophole”*, EDF Climate 411 Blog (Feb. 19, 2020), <http://blogs.edf.org/climate411/2020/02/19/epa-data-emphasizes-danger-of-trump-administrations-air-toxics-loophole/>.

² See, e.g., Rebecca Beitsch, *Architect of Controversial EPA Policies to Return as Chief of Staff: Report*, The Hill (Feb. 14, 2020), <https://thehill.com/policy/energy-environment/483140-architect-of-controversial-epa-policies-to-return-as-chief-of-staff>.

³ See Juliet Eilperin & Brady Dennis, *She Pushed Trump to Exit the Paris Climate Agreement and Roll Back Environmental Rules. And She’s Returning to EPA as Chief of Staff*, The Washington Post (Feb. 14, 2020), <https://www.washingtonpost.com/climate-environment/2020/02/14/she-pushed-trump-exit-paris-climate-agreement-rollback-environmental-rules-shes-returning-epa-chief-staff/>.

⁴ Energy 45, <http://web.archive.org/web/20200221210607/https://www.energy45.org/> (website as of February 21, 2020).

⁵ Energy 45, <https://www.energy45.org/> (last visited Apr. 23, 2020) (thanking Energy45 supporters but providing no information about operations). This change appears to have been implemented no later than March 14, 2020, the weekend prior to Ms. Gunasekara’s return to EPA. See <http://web.archive.org/web/20200314065051/https://www.energy45.org/>.

⁶ See, e.g., National Emission Standards for Hazardous Air Pollutants: Coal- and Oil-Fired Electric Utility Steam Generating Units—Reconsideration of Supplemental Finding and Residual Risk and Technology Review, EPA-HQ-OAR-2018-0794 (final rule signed Apr. 16, 2020); Review of the National Ambient Air Quality Standards for Particulate Matter, EPA-HQ-OAR-2015-0072 (proposal signed Apr. 14, 2020); Safer Affordable Fuel-Efficient Vehicles Rule for Model Years 2021–2026 Passenger Cars and Light Trucks, EPA-HQ-OAR-2018-0283 (final rule signed Mar. 30, 2020); Strengthening Transparency in Regulatory Science, 85 Fed. Reg. 15,396 (Mar. 18, 2020) (supplemental notice of proposed rulemaking); Reclassification of Major Sources as Area Sources Under Section 112 of the Clean Air Act, 84 Fed. Reg. 36,304 (proposed July 26, 2019).

- (4) Ms. Gunasekara began pursuing many of these rollbacks while at EPA's Office of Air and Radiation and continued supporting them after leaving the Agency.⁷ In light of the connection between her previous and current Agency work and private sector activities, her correspondence with EPA during her time away from the Agency is directly relevant to the performance of her duties as Chief of Staff.
- (5) Moreover, it is evident that Ms. Gunasekara was in conversations with EPA about career prospects during her helm at Energy 45. For example, news reports of Ms. Gunasekara's likely return to EPA surfaced on February 14, 2020,⁸ but she signed an official filing as CEO of Energy 45 at least as late as March 2, 2020.⁹ As of the date of this FOIA request, the website for the Office of the Secretary of State of Mississippi continues to list Ms. Gunasekara as CEO of Energy 45 Fund.
- (6) Expedited processing is critical so that the public can understand Ms. Gunasekara's relationship with EPA while she worked for a secretly funded private organization whose mission directly implicated the public health and environmental protections in EPA's portfolio.¹⁰ Now that Ms. Gunasekara has assumed the role of Chief of Staff, these records will help inform the public about the prospect for public health and environmental protections upon which millions of Americans rely. Since EPA is issuing damaging proposals and final rules at a rapid pace, it is urgent that the public obtain immediate access to these records.

Request for Fee Waiver

As a non-partisan, non-profit organization that provides information that is in the public interest, EDF respectfully requests a waiver of fees associated with this request. We are not seeking

⁷ See, e.g., Reveal News, *Scuttling Science* (Sept. 14, 2019) (quoting Ms. Gunasekara as saying, "I am currently the founder of a pro-Trump nonprofit called Energy 45 where the mission is to educate the public on the energy, environment, and economic successes of the Trump Administration."), <https://www.revealnews.org/episodes/scuttling-science/>; Mandy Gunasekara, Op-Ed, *US air is cleanest on record—Trump improving our environment and economy*, Fox News (Aug. 23, 2019), <https://www.foxnews.com/opinion/mandy-gunasekara-us-air-is-cleanest-on-record-trump-improving-our-environment-and-economy>; Stephen Lee, *Trump Energy Emissary: 'Prove Them Wrong Just By Showing Up,'* Bloomberg (July 25, 2019) ("Gunasekara is no longer working for Trump, at least not officially. But she says her new organization, the Energy 45 Fund, plans on helping him get re-elected by embracing his environmental record."), <https://news.bloombergenvironment.com/environment-and-energy/trump-energy-emissary-i-can-prove-them-wrong-just-by-showing-up>.

⁸ See *supra* notes 2-3.

⁹ See Energy 45 Fund, Non-Profit Status Report (Mar. 2, 2020), available through the website of the Mississippi Secretary of State.

¹⁰ See Energy 45 (Feb. 21, 2020), *supra* note 4 (describing Energy 45 as "dedicated to informing the public about the environmental and economic gains made under the Trump Administration").

information for any commercial purpose and the records received will contribute to a greater public understanding of an issue of considerable public interest: the EPA Chief of Staff's relationship to the Agency in her immediately prior role at a secretly funded organization focused on many of the public health and environmental protections in EPA's portfolio. 5 U.S.C. § 552(a)(4)(A)(iii). EDF is well positioned to disseminate the records to the public, as we routinely issue press releases, action alerts, reports, analyses, and other public outreach materials. We fully intend to disseminate newsworthy information received in response to this request. Accordingly, we respectfully request that the documents be furnished without charge. 5 U.S.C. § 552(a)(4)(A)(iii).

For ease of administration and to conserve resources, we will accept documents produced in a readily accessible electronic format. In the event EDF's request for a fee waiver is denied or if you have any questions about this request, please contact me immediately by telephone at (202) 573-3318 or by email at blevitan@edf.org.

Respectfully submitted,

Benjamin Levitan